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April 14, 2004

Honorable Deborah Taylor Tate
Chairman
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, Tennessee 37243

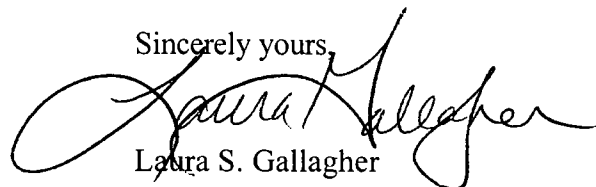
RE: Amended Petition of the Tennessee Coalition of Rural Incumbent Telephone Companies and Cooperatives for Suspension of Wireline to Wireless Number Portability Obligations Pursuant to Section 251(f)(2) of the Communications Act of 1934, as Amended; Docket No. 03-00633

Dear Chairman Tate.

Enclosed is an original and thirteen copies of Nextel Communications, Inc.'s supplemental Opposition, in regards to the above-referenced case. Kindly file same in this docket. Copies are being sent to all parties of record. An additional copy has been included to be returned to us with the stamped date of the filing.

If you have any questions, kindly contact me at the above number. Thank you

Sincerely yours,



Laura S. Gallagher

LSG css
Enclosures

cc: Paul G. Summers, Attorney General for the State of Tennessee
Vance L. Bromel, Assistant Attorney General
Richard Collier, General Counsel for the Tennessee Regulatory Authority
R. Dale Grimes, Counsel for the Coalition

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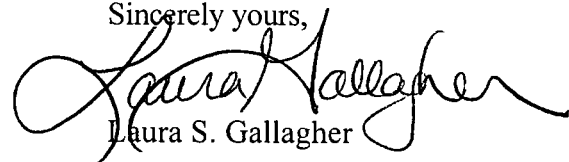
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April 14, 2004

VIA FEDERAL EXPRESS

Deborah Taylor Tate, Chairman
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, Tennessee 37243

RE: Amended Petition of the Tennessee Coalition of Rural Incumbent Telephone Companies and Cooperatives for Suspension of Wireline to Wireless Number Portability Obligations Pursuant to Section 251(f)(2) of the Communications Act of 1934, as Amended; Docket No. 03-00633

Dear Chairman Tate:

Nextel Communications, Inc., ("Nextel") submits this correspondence in response to the Amended Petition filed by the Tennessee Coalition of Rural Incumbent Telephone Companies and Cooperatives ("Petitioners" or "rural ILECs") with the Tennessee Regulatory Authority ("TRA"). The Amended Petition requests a suspension of the Petitioners' obligations to implement the Federal Communications Commission ("FCC") requirement to implement wireline-to-wireless local number portability ("LNP") upon receiving a request from a commercial mobile radio service ("CMRS") provider.¹ For the reasons stated in its February 12, 2004 letter (which is incorporated by reference as if fully set forth herein) and the reasons set forth here, Nextel opposes any suspension of the rural ILECs' LNP requirements and requests the TRA to affirm the direction of the FCC, namely that the rural ILECs have an obligation to port numbers to wireless carriers (conditioned only upon receipt of the appropriate port validation information).

The Amended Petition, filed by the same group of rural ILECs operating in Tennessee as filed the original petition, fails utterly to demonstrate the need for any extension of the intermodal LNP requirement by the TRA. As an initial matter, the Amended Petition fails to add *anything significant* to Petitioners' original filing. As a result, the rural ILECs' requests for relief from honoring their statutory local number portability obligations are wholly unsubstantiated. Moreover, the Petitioner's arguments in favor of a suspension are nothing more than delay tactics that do not deserve the TRA's serious consideration.

¹ See Amended Petition of the Tennessee Coalition of Rural Incumbent Telephone Companies and Cooperatives for Suspension of Wireline to Wireless Number Portability Obligations Pursuant to Section 251(f)(2) of the Communications Act of 1934, as Amended, Docket No. 03-00633 (filed Mar 24, 2004) ("Amended Petition")

Deborah Taylor Tate, Chairman
April 14, 2004
Page 2

Specifically, Petitioners assert that the “provision of number portability in the areas served by [Petitioners] will have significant adverse economic impact on telecommunications users in the areas served” and that “imposition of this requirement is economically burdensome and . . . not technically feasible.”² In addition, the Amended Petition modifies the relief sought by the rural ILECs’ initial petition of December 11, 2003, requesting the TRA to grant as suspension until the later of: (1) the dates for each as their projected date for LNP technical capacity, (2) six months after the date by which the applicable FCC Orders [of November 10, 2003 and January 16, 2004] are no longer subject to appeal, or (3) six months after the date by which the TRA has provided direction to the Petitioners on the rating and routing issues raised in [the] Petition and in the CMRS arbitration, Docket No. 03-00585, pending before the TRA.³ *Other than changing the end date of their requested relief, however, the Petitioners do not present significant new arguments or information to support the grant of the Petition.*⁴

² Amended Petition at 2

³ *Id.* at 1-2. The Petitioners originally requested that the TRA suspend enforcement of the LNP requirements pending review of the petition and further suspend the Petitioners’ obligations to provide LNP in their service areas without any clear deadline by which Petitioners must provide LNP, other than not earlier than May 24, 2004. Petition of the Tennessee Coalition of Rural Incumbent Telephone Companies and Cooperatives for Suspension of Wireline to Wireless Number Portability Obligations Pursuant to Section 251(f)(2) of the Communications Act of 1934, as Amended, Docket No. 03-00633 (filed December 11, 2003). Petitioners now suggest that the TRA grant a suspension until guidance is given on rating and routing issues pending in the pending CMRS arbitration proceeding. That proceeding, however – and the rating and routing issues presented therein – is wholly irrelevant to and has no bearing on the obligation of Petitioners to port numbers to wireless carriers upon receipt of a *bona fide* request. ***The FCC has clarified the rating and routing issues in general and the CMRS arbitration pending before the TRA should not be used as a means to delay such obligations further.*** Indeed, as the FCC explained in the *Intermodal Porting Order*, “a wireless carrier porting-in a wireline number is required to maintain the number’s original rate center designation following the port. As a result, calls to the ported number will continue to be rated in the same fashion as they were prior to the port. As to the routing of calls to ported numbers, it should be no different than if the wireless carrier had assigned the customer a new number rated to that rate center.” *Intermodal Porting Order* at ¶ 27.

⁴ This is the case even though the Amended Petition was filed in response to the TRA’s order that Petitioners provide information regarding the specific relief requested by each Petitioner. Tennessee Coalition of Rural Incumbent Telephone Companies and Cooperatives for Request for Suspension of Wireline to Wireless Number Portability Obligations Pursuant to Section 251(f)(2) of the Communications Act of 1934, as Amended, *Order Requiring the Tennessee Coalition to Amend its Petition and Appointing Hearing Officer*, Docket No. 03-00633 (entered March 18, 2004).

Deborah Taylor Tate, Chairman
April 14, 2004
Page 3

Indeed, for the most part, the Amended Petition simply restates the arguments presented in the original petition relating to technical infeasibility, the economic burdens of LNP and the lack of clarity of existing LNP regulations and procedures. According to Petitions, for instance, the rural ILECs “need additional time to complete the tasks that are needed to become technically capable to implement LNP.” Critically, however, the Petitioners go on to state that “once technical capacity is achieved, technical feasibility will not have been reached . . . due to the lack of the necessary interconnection arrangements required [for] intermodal porting.”⁵ As Nextel stated in its original objection to the rural ILECs’ petition, however, the FCC has already found that the existence of an interconnection agreement *is not necessary, and cannot be required*, for ILECs to comport with their intermodal number portability obligations.

Moreover, the Petitioners’ continued claims over the “existence of uncertainty” and the continuing need for clarification with respect to their intermodal porting obligations, remain wholly unsubstantiated.⁶ Indeed, the Petitioners continue to ignore the fact that *all local exchange carriers, rural or otherwise, have been on notice since 1996 that full intermodal number portability was required*. And, as Nextel stated in its original objection to the rural ILECs’ petition, claims over the lack of clarity concerning ILEC LNP obligations are at odds with federal law, including the *Intermodal Porting Order*, FCC policy and the interests of rural consumers who, like consumers in larger urban areas, have the legal right under the Communications Act to port their numbers between landline telephone companies, and by FCC rule, between landline ILECs and CMRS carriers.

Nextel recognizes that the Amended Petition provides brief statements regarding each Petitioner’s alleged costs. These “individual” estimates, however, are merely boiler-plate descriptions that are wholly unsupported by any data. Nor do the rural ILECs provide *any evidence* that the application of the LNP requirement would be likely to cause undue economic burden *beyond that which is typically associated with efficient competitive entry*. Both the absence of any evidence in the petition and the boiler-plate assertions about the costs of wireline to wireless LNP are plainly insufficient to warrant a suspension.

Similarly, while the rural ILECs claim that “[i]n the face of significant uncertainty regarding the interpretation and even the legality of the *November 10 Intermodal Order*, the expenditure of limited resources is not justifiable,”⁷ the Petition does not explain why

⁵ Amended Petition at 3.

⁶ *Id.* at 8

⁷ *Id.* at 9

Deborah Taylor Tate, Chairman
April 14, 2004
Page 4

these factors are in any way relevant to the ILEC porting obligations or justify an extension. Rather, Petitioners state that “[t]he decision to incur [the costs of meeting their LNP obligations] becomes even more difficult to justify when weighed against the few, if any, public benefits that may be gained by attempting to implement the capability to port numbers to the wireless provider.”⁸ This is not an appropriate judgment for Petitioners to make. The FCC plainly has weighed the costs and benefits and determined that they are justified. There is no need for separate action by the TRA.

The rural ILECs must not be permitted to hide behind blanket assertions that compliance is not possible. Such assertions merely seek to further delay necessary wireline network upgrades that must precede overall LNP implementation. As the TRA is aware, LNP is meant to be a pro-competitive, publicly beneficial tool. Rural ILECs should not be permitted to use their alleged “confusion” or purported concerns about LNP implementation as an excuse to further delay basic compliance and deny consumers in Tennessee their number portability rights.



Nextel opposes the Amended Petition and any efforts of the rural ILECs to suspend meaningful preparation for the advent of wireline-to-wireless porting. For the reasons set forth herein as well as those offered in Nextel’s February 12, 2004 letter to this Commission, the rural ILECs’ Amended Petition and original Petition must be dismissed.

Respectfully submitted,



Laura H. Phillips
District of Columbia Bar No. 405176
Counsel for Nextel Communications, Inc.

cc: Paul G. Summers, Attorney General for the State of Tennessee
Vance L. Broemel, Assistant Attorney General
Richard Collier, General Counsel for the Tennessee Regulatory Authority
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⁸ *Id*